

CITY OF IDAHO FALLS
BOARD OF ADJUSTMENT
P.O. BOX 50220
IDAHO FALLS ID 83405-0220
(208) 612-8276

November 19, 2009
12:15 p.m.

City Annex Building, Council Chambers
680 Park Avenue

Members Present: Stephanie Austad; Jake Cordova; Alex Creek; Steve Davies; Hal Latin; Kendall Phillips; and James Wyatt.

Members Absent: Richard Lee.

Staff Present: DaNiel Jose, Current Planner; Brad Cramer, Assistant Director and Recording Secretary.

Also Present: The applicant and approximately 3 interested citizens.

Change to Agenda: Findings of Fact and Conclusions of Law for Block 8, Snake River Landing, Division No. 5, will be approved at the next scheduled meeting.

Call to Order: The meeting was called to order at 12:15 p.m. by Chair Wyatt.

Minutes: September 10, 2009
October 22, 2009

Motion by Cordova, seconded by Creek to approve the minutes of September 10, 2009, and the minutes of October 22, 2009, as presented.

Motion passed 6, 0, 0.

Public Hearings: Variance Request
Lot 1, Block 14, Falls Valley, Division No. 6
2155 Kearney Street

Jose described the request as outlined in the staff report, part of the public record. She noted the following in regard to the project:

- The request is for a reduction to the required rear yard setback from 25-feet to 20-feet.
- A variance was granted in 1996 for the reduction of the required 30-foot side setback to 15-feet for an addition to the dwelling on the east and detached garage to the rear of the property.
- At the time, there was no expiration for variances granted in 1996.
- The current request is for a 5-foot reduction to the required rear yard setback for the addition of an attached garage.
- Staff recommends denial as the request does not meet the criteria for granting a variance.
- The development of the property was not intended to be done through a series of variances.
- The attached garage is no longer an accessory structure and must meet the required 25-foot rear yard setback.

Jose clarified that if the Henderson's' reduced the size of the garage to 19-feet in width they would comply with setback requirements, but that width does not work well for a 2-car garage.

Chair Wyatt opened the hearing to public comment.

Clive Henderson
2155 Kearney Street
Idaho Falls, ID

Mr. Henderson said the rapid expansion of their business delayed the construction of the plans approved in 1996. At that time, their request was advertised and approved for an attached garage. Recent submittal of building plans brought the error to the attention of staff. He said placing the garage to the middle of the property is not convenient.

Mr. Henderson confirmed for Wyatt that the original plans approved in 1996 were for a detached garage, but was legally advertised as an attached garage and they have an approval letter from staff for an attached garage. The original approval letter (RRM-129-96) dated August 22, 1996, was read into the record (Exhibit A).

Davies read a statement from the August 20, 1996, Board of Adjustment meeting record as follows: "The original request was for an attached garage. The garage with the new variance request will be detached. The request will still be the same, the fact the garage will be detached, will not affect the request". Throughout the minutes "attached" and "detached" are used interchangeably. This makes evident a level of confusion in 1996. Jose said the motion clearly states, "to construct an attached addition to the dwelling, and a detached garage" and the motion is what has standing in this case.

Arlene Henderson
2155 Kearney Street
Idaho Falls, ID

Mrs. Henderson said an accessory building is desirable as the setback is less, but the placement of a power pole in the rear of the property would set the detached garage out 13-feet placing it in the middle of the back yard. It is more desirable to reduce the required rear yard setback and attach the garage to the home.

Chair Wyatt closed the hearing to public comment.

Discussion by the Board:

Cordova said a variance was approved in 1996 and the applicant may construct what was approved at that time. The current requested for a reduction to the rear yard setback is actually less than what was approved in 1996. The attached garage makes more sense, especially for the homeowner.

Creek said the property is somewhat unique based on the utility corridor. It seems a waste of property if the garage were placed in the middle of the yard. Wyatt said it is interesting that either way the structure is placed requires a variance. Davies does not believe there is much difference between the two requests.

Motion by Davies, seconded by Cordova to approve the variance request for a reduction to the required 25-foot rear yard setback to 20-feet in conjunction with the previously approved variance (1996) for the reduction of the required 30-foot side yard to 15-feet due to uniqueness based on confusion of the approval in 1996 and from a practical perspective there is little difference between the two variance requests. Motion passed.

Aye: Stephanie Austad; Jake Cordova; Alex Creek; Steve Davies; and Kendall Phillips.

Nay: Hal Latin; and Chair James Wyatt.
Latin voted nay as the garage could be constructed as a detached garage and with a bit of imagination it could be very useful. Wyatt voted nay as the homeowner could construct the garage without the need for a second variance and there is nothing unique to the property.

Abstain:

Business:

1. Findings of Fact and Conclusions of Law for Lot 28, Block 2, 1st Amended Montcliffe, Division No. 4, (243 Alturas).

Motion by Cordova, seconded by Creek to define in the Conclusions of Law for 243 Alturas (Napier) the reasons for approval of the variance.

Aye: Stephanie Austad; Jake Cordova; Alex Creek; Hal Latin; Kendall Phillips; and Chair James Wyatt.

Nay:

Abstain:

Motion by Austad, seconded by Phillips to approve the Findings of Fact and Conclusions of Law for Lot 28, Block 2, 1st Amended Montcliffe, Division No. 4, 243 Alturas (Napier) as amended.

Aye: Stephanie Austad; Jake Cordova; Alex Creek; Hal Latin; Kendall Phillips; and Chair James Wyatt.

Nay: Steve Davies was not in attendance at the meeting.

Abstain:

Miscellaneous: None.

Adjourn: Meeting adjourned at 12:50 PM.

Debra Petty, Recording Secretary
Board of Adjustment